

REMARKS

Claims 7-62 were previously pending in this application. By this response, Applicant amends each of claims 7, 24, 43, and 62. As a result, claims 7-62 are pending for examination with claims 7, 24, 43, and 62 being independent claims. No new matter is added.

I. Telephone Interview

Initially, Applicant's representative Walt Norfleet thanks the Examiner for her courtesy in conducting a telephone interview on March 23, 2007. The substance of the interview is summarized throughout the remarks herein.

II. Apparatus Claims 7, 24, and 43 are Patentable

Claims 7-14, 16, 19-33, 35, and 38-42 are rejected under 35 U.S.C. § 102(b) as being anticipated by US 5, 571,119 (Atala). Claims 15, 18, 34, and 37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Atala in view of US 5,752,964 (Mericle). Claims 17, 36, 43-51, 54, and 57-61 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Atala in view of US 5,741,277 (Gordon). Claims 52-53 and 55-56 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Atala and Gordon in view of Mericle. Applicant respectfully traverses these rejections, but nonetheless amends each of independent claims 7, 24, and 43 to further distinguish the applied reference.

Each of independent claims 7 and 43 are amended to define a surgical instrument that comprises, among other features, a cutter that moves in the instrument to cut suture wire at a location near a distal end of the shaft to free a wire suture loop from the instrument. Independent claim 23 is amended to define a suturing instrument that comprises, among other features, a cutter that moves in the instrument to cut suture wire at a location near a distal end of the shaft to free an annular fastener from the instrument.

Atala is directed to a device for assisting a surgeon in passing a suture through tissue. In operation, the surgeon passes the needle 90 of Atala's instrument through tissue so that the port 93

passes through the tissue. Guide wire 88 is then pressed into the needle 90 until suture 86 extends from port 93. The surgeon then grips the suture 86 and retracts the needle 90 from the tissue. (See generally, Column 9, lines 26-65). As pointed out by the Examiner during the interview, the needle of Atala may include blade-like interior and exterior cutting edges. (See generally, column 5, lines 46-48).

Atala does not teach or disclose a cutter that moves in the instrument to cut suture wire. The only cutter mentioned is an edge of the needle that punctures tissue. For at least this reason, each of independent claims 7, 23, and 43 are patentable over Atala. Neither Gordon nor Mericle satisfy the deficiencies of Atala. Each of claims 8-22, 24-42 and 44-61 is patentable for at least the same reason as the claim from which they depend. Accordingly, withdrawal of the rejections of claims 7-61 is respectfully requested.

III. Method Claim is Patentable

Independent claim 62 anticipated by Atala. Applicant respectfully traverses this rejection, but nonetheless amends claim 62 to further define over the Atala reference.

As amended, claim 62 defines a method of forming a loop suture. The method comprises, among other aspects, moving a cutter in an instrument to cut the suture wire to free a suture wire loop from the instrument.

As discussed above, nowhere does Atala teach or disclose moving a cutter in an instrument to cut suture wire. Independent claim 62 is patentable over Atala for at least this reason. Accordingly, withdrawal of this rejection is respectfully requested.

CONCLUSION

In view of the foregoing remarks, this Application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this Response, that the application is not in condition for Allowance, the Examiner is requested to call the undersigned attorney or agent at the telephone number listed below.

If this response is not considered timely filed, and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an Extension fee that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Dated: March 27, 2007

Respectfully submitted,

By 

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